

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SUSAN SOLTANPOUR

Case No. 07 CIV. 9886

Plaintiff(s),
MARGUERITE ENDRIZZI

VERIFIED ANSWER

Hon. Kenneth M. Karas

Defendant(s).
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The defendant, MARGUERITE ENDRIZZI, by her attorneys, O'CONNOR, McGUINNESS, CONTE, DOYLE & OLESON, answering plaintiff's complaint herein:

ANSWERING A FIRST CAUSE OF ACTION

FIRST: Defendant admits the allegations contained in Paragraphs numbered "1", "3", "5", "6" and "7" of the complaint.

SECOND: Defendant denies any knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraphs numbered "2", "4", "10" and "11" of the complaint herein.

THIRD: Defendant denies each and every allegation contained in Paragraphs numbered "8", "9", "12", "13", "14", "15", "16", "17" and "18" of the complaint.

AS AND FOR A FIRST SEPARATE DEFENSE

FOURTH: The Complaint should be dismissed for lack of jurisdiction, insufficiency of process, insufficiency of services of process, and failure to state a claim for which relief may be granted pursuant to Rules 12(b), (4), (5) and (6) of the Federal Rules of Civil procedure.

AS AND FOR A SECOND SEPARATE DEFENSE

FIFTH: Any injuries sustained by Plaintiff were caused or contributed to by the culpable conduct and assumption of risk of Plaintiff.

AS AND FOR A THIRD SEPARATE DEFENSE

SIXTH: Plaintiff's damages, to the extent there are any, were the result of the Plaintiff's own acts of fault, or were the fault of other persons, for whose actions, the answering defendant bears no legal responsibility.

AS AND FOR A FOURTH SEPARATE DEFENSE

SEVENTH: Plaintiff's Complaint must be dismissed as a matter of law to the extent that plaintiff did not sustain a "serious injury" as is defined by the applicable provisions of the New York State No-Fault Insurance Law.

AS AND FOR A FIFTH SEPARATE DEFENSE

EIGHTH: Plaintiff's damages, to the extent there are any, were the result of unreasonable actions of the plaintiff in disregarding his own best interest by failing and neglecting to exercise ordinary care in making use of the available seat belts.

AS AND FOR A SIXTH SEPARATE DEFENSE

NINTH: The answering defendant asserts that her alleged acts and/or omissions, if any, were not the proximate cause of plaintiff's injuries.

AS AND FOR A SEVENTH SEPARATE DEFENSE

TENTH: The Plaintiff's Complaint should be dismissed as a matter of law, insomuch as it fails to set forth facts sufficient upon which to base a cause of action against the defendant.

AS AND FOR A EIGHTH SEPARATE DEFENSE

ELEVENTH: Plaintiff's Complaint must be dismissed as a matter of law to the extent that insomuch as it fails to comply with Article 16 of the Civil Practice Law and Rules.

AS AND FOR A NINTH SEPARATE DEFENSE

TWELFTH: The Defendant asserts that the applicable provision of Article 16 of the CPLR limits liability of persons found to be jointly liable, leaving Defendant, MARGURIET ENDRIZZI, to plead that she is not liable in any percentage to the Plaintiff and that the liability, if any, rest with other third person tort feasors capable of suit by the plaintiff.

WHEREFORE, defendant, MARGUERITE ENDRIZZI, demands judgment against Plaintiff dismissing Plaintiff's Complaint together with costs and disbursements of this action and for any expenses incurred in defending this matter, including attorney's fees and such other, further and different relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff demands a jury trial for all claims stated herein.

Dated: White Plains, New York
December 6, 2007

Yours, etc.,

By: _____

MONICA G. SNITILY
O'CONNOR, McGUINNESS, CONTE,
DOYLE & OLESON
Attorney for Defendant
MARGUERITE ENDRIZZI
One Barker Avenue, Suite 675
White Plains, New York 10601
914-948-4500

TO: GOLDBLATT & ASSOCIATES, P.C.
Attorneys for Plaintiff
1846 East Main Street (Route 6)
Mohegan Lake, New York 10547
914-788-5000

ATTORNEY'S VERIFICATION

STATE OF NEW YORK)
ss:
COUNTY OF WESTCHESTER)

I, MONICA G. SNITILY, an attorney duly licensed to practice law in the Stat of New York, hereby affirms the following under the penalty of perjury:

I am the attorney for the Defendant, in the within action. I have read the foregoing Answer and know the contents thereof; upon information and belief, the same is true except as to those matters therein stated to be alleged upon information and belief, which I believe to be true.

The information contained in the aforementioned Answer as derived from conversations and correspondence with representatives of Defendant and through memoranda, investigations, reports and other matters contained in our file on this matter.

The reason that this verification is being made by myself and not by the Defendant is that the Defendant is in a county other than that which we maintain the office where this document was prepared.

Dated: White Plains, New York
December 6, 2007

MONICA G. SNITILY